CONFIDENTIAL

1953

File No. EYP 1053 1054

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DEPARTMENT

B BRANCH

1008 Revert 4-28/2

Subject:— Administ of E. P. Act, 1

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Std. Sectt. Slip 24-B

CONFIDENTIAL

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No.33(1)/53-Prop. -
Government of India, -
Ministry of Rehabilitation.

New Delhi, the 4th November 1953.

From

Shri P.G.Zachariah,
Deputy Secretary to the
Government of India.

To

The Chief Secretary (by name)
to the Government of all Part
"A", "B" & "C" States except
West Bengal, Assam, Manipur,
Tripura, Jammu and Kashmir and Ajmer.

Subject:- Submission of half yearly Confidential reports on the work of Custodians appointed under Section 6 of the Administration of Evacuee Property Act, 1950.

Sir,

I am directed to say that in view of the fact that the Custodian General of Evacuee Property exercises general superintendence and control over the work of the Custodians, appointed by the State Governments under section 6 of the Administration of Evacuee Property Act 1950, it has been decided that the Confidential Reports of all Deputy Custodians and above should be transmitted by the State Governments to the Custodian General of Evacuee Property, for recording his views on the work of the officers concerned half yearly. I am, therefore, to request that in future Confidential Reports of these officers may kindly be forwarded to the Custodian General, for necessary action on his part.

2. The receipt of this letter may kindly be acknowledged.

Yours faithfully,

Sd/-
(P.G.ZACHARIAH)
Deputy Secretary to the
Government of India.

Copy forwarded as to the Custodian General of Evacuee Property, New Delhi.

Sd/-
DEPUTY SECRETARY.

HSS.25/5

C O N F I D E N T I A L.

No.38(1)/53-Prop-II
Government of India.
Ministry of Rehabilitation.

New Delhi, the 14th June, 1954.

From

Shri P.G.ZACHARIAH,
Deputy Secretary to the Govt. of India.

To

The Chief Secretary (by name)
to the Government of all part
'A', 'B' & 'C' States, (except West Bengal,
Assam, Manipur, Tripura, Coorg, Jammu and Kashmir)

Subject:- Submission of Confidential Reports
on the work of Custodians appointed
under section 6 of the Administration
of Evacuee Property Act 1950.

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Sir

In supersession of this Ministry's letter of even number dated the 4th November, 1953 on the subject mentioned above, I am directed to say that in future the practice regarding the submission of confidential reports of Custodians and Deputy Custodians of Evacuee Property may be regularised on the following lines:

1) Confidential reports of all full-time officers of the status of Deputy Custodians and above may be transmitted by the State Government with their comments to the Custodian General for recording his remarks thereon. This may be done once a year at the end of the financial year, and not half yearly.

2) In regard to ex-officio Deputy Custodians, the State Governments need not furnish any reports, but the Custodian General would, from time to time, if he so desires, communicate his remarks on the work of any of the ex-officio officers of the Custodian's Organisation of the State Government for inclusion in the confidential rolls of the officers concerned.

3) In regard to ex-officio Custodians, however, the State Governments may furnish annual reports regarding the work of their officers to the Custodian General who will record his remarks thereon.

2. I am torequest that the receipt of this letter may kindly be acknowledged.

Yours faithfully.

Yours faithfully,

Sd/-
(P.G.ZACHARIAH)
Deputy Secretary to the
Government of India.

Copy to the Custodian General of Evacuee Property with reference to his U.O.No. 1593/Admn/54 dated 20-5-54.

Sd/-
Deputy Secretary

HSS.25/5

D.O.No.EVP.1955/28563-B
Rehbn., Housing and B.C.Deptt.,
Sachivalaya, Etc. 28th July 1955.

Dear Shri Sadhwani,

Please refer to your d.o. letter No.EVP Cases, dated the 20th Jenry-1955 regarding the Administration of Evacuee Property Act, 1950 and your subsequent reminder letter of even number dated the 7th May 1955.

Govt. has carefully considered the point raised by you and the position arising out of the C.E.P.'s decision declaring that the Asstt. Custodians in the districts have no power to pass orders as under section 7 of the above Act, in consultation with the Legal Deptt. Under section 8(1) of the Administration of Evacuee Property Act, 1950, addl., Dy. or Asstt. Custodians of Evacuee Property are appointed for the purpose of discharging the duties imposed on the Custodian by or under the Act.(vide Govt. notification, R&H. No.R.141-B, dated the 9th Decr. 1949). It is obvious that by virtue of these provisions and the notification of 1949 it would be competent to the Asstt. Custodians to pass orders under section 7. Sub-section (3) of section 6 however provides that the State Govt. may by general or special orders, provide for the distribution of work among them. It is true that the State Govt. has under its secret Circular Memorandum, No.R.141-B, dated the 16th August, 1949 issued instructions that certain action can be taken by the Dy. Custodians only. Even this Circular has been superseded by another secret Circular of even no. dated the 3rd May 195 according to which cases falling under section 2(a)(

-(2)(2) and (11) of the Administration of Evacuee Property Act, 1950 were to be dealt with at the stage of enquiry by subordinate officers, orders however being passed by the Dy. Custodians. But these instructions being secret and confl., issued merely for the guidance of the officers concerned, they cannot be deemed to be orders rellatable to section 6(3) and no relaiance can be placed on them in any legal proceedings and any order in breach of these secret instructions cannot be ultra vires or devoid of legal effect. This position has been explained to the present C.E.P., Shri Godbole and the latter has kindly agreed to exercise his powers of revision and review under section 20(2) of the Act so far as the cases in which the Custodian has held the orders of the Asstt. Custodians as ultra vires on the above technical ground. You may, therefore, now bring such cases to the personal notice of Shri Godbole.

Yours sincerely,

Sd/-

(N.M.JANI
Asstt. Secretary to Government.

Shri H.T.Sadhwani, I.A.S.,
Collr. and Dy. C.E.P., Bijapur,

Copy f.w.c. to Shri D.B.Godbole, M.A.,LL.M.,C.E.P. Bombay for favour of information.

HSS.25/5